

REMARKS

The Office Action dated 18 July 2008 has been fully considered by Applicant.

Enclosed is a Petition For Two-Month Extension of Time and a check in the amount of \$490.

Claims 1, 8, 10, 17 and 19 have been currently amended. Claim 2-6, 9, 11-15 and 18 have been previously presented. Claims 7 and 16 have been canceled.

Claims 1-4, 7-13 and 16-19 rejected under 35 USC 103(a) as being unpatentable over United States Patent No. 6,857,128 to Borden et al in view of United States Patent No. 6,536,041 to Knudson et al are traversed herein.

Independent claim 1 has been currently amended to include a method of rotatably displaying information in at least one selected cell of a grid electronic program guide having a plurality of cells comprising the steps of (a) storing the information for each cell of the grid electronic program guide in a rotatable banner form; (b) selecting at least one cell of the grid electronic program guide having the stored rotatable banner information; and © rotating the banner having the information for the at least one selected cell for display in the electronic program guide a predetermined number of times to enable a viewer to fully read the information in the at least one selected cell while non-rotatably displaying the non-selected plurality of cells of the grid electronic program guide. The basis for the amendment can be found in Applicant's publication at Col 2, Paragraphs 0022 and 0024.

In the Borden patent, an additional window is opened with displays data selected from a cell of the electronic program guide. The viewer "scrolls" the electronic program guide display to manipulate programs into a selected area. The selected area is not shown in the **originally selected cell** of the electronic program guide.

Thus, Borden does not teach to a method of rotatably displaying information in at least one selected cell of a grid electronic program guide having a plurality of cells and storing the information for each cell of the grid electronic program guide in a rotatable banner form, as in Applicant's invention.

Knudson teaches toward displaying a controllable ticker containing real-time information on the user's display screen on top of an existing television program (Col. 13, lines 50-54) and not toward rotating the banner having the information for the at least one selected cell for display in the electronic program guide a predetermined number of times to enable a viewer to fully read the information in the at least one selected cell while non-rotatably displaying the non-selected plurality of cells of the grid electronic program guide as in Applicant's invention.

Knudson actually teaches the viewer to navigate away from the original electronic program guide grid display. An additional window is opened in Knudson which overlays video being played and which displays data selected from a cell of an electronic program guide as in Borden. However, there is no teaching in either Knudson or Borden to rotate a banner within a selected cell of a viewed electronic program guide while the selected cell still forms a part of the original static electronic program grid.

Thus, Applicant sincerely believes that independent claim 1, along with dependent claims 2-6, 8 and 9, is not taught or suggested in the cited references.

Independent claim 10 has been currently amended to include an apparatus for rotatably displaying information in at least one cell of a grid electronic program guide having a plurality of cells, the apparatus comprising: means for storing a rotatable banner with the information for each cell of the grid electronic program guide; means for selecting at least one cell of the grid electronic

program guide; and means for rotating the banner having the information for the at least one selected cell to display the banner in the electronic program guide a predetermined number of times to enable a viewer of the electronic program guide to fully read the information in the at least one selected cell while non-rotatably displaying the non-selected plurality of cells of the grid electronic program guide.

Applicant believes that independent claim 10, along with dependent claims 11-15 and 17-18, is patentable over the cited references for the same reasons as stated herein with reference to claim 1 and therefore respectfully request reconsideration of the rejection.

Independent claim 19 has been amended to include a computer readable storage medium having as a part thereof a code for rotating a banner in each cell in a least one selected cell to display the banner in the grid electronic program guide a predetermined number of times to enable a viewer of the electronic program guide to fully read the information in the least one selected cell while non-rotatably displaying the non-selected plurality of cells of the grid electronic program guide.

As previously set out above with reference to claim 1 neither the Borden et al patent or the Knudson et al patent teaches or suggests the subject matter as set forth in Applicant's currently amended 19. Therefore, Applicant sincerely requests reconsideration of the rejection.

Furthermore, the combination of Borden et al in view of Knudson et al is untenable. According to the USPTO's own Examination Guidelines for Determining Obviousness Under 35 U.S.C. § 103 in view of the Supreme Court decision in KSR International Co. v. Teleflex Inc., 550 U.S. 82 USPQ2d 1385 (2007), found at 72 Fed. Reg. 57,526, 57,528-57, 529, the key to supporting any rejection under 35 U.S.C. §103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting

a rejection under 35 U.S.C. §103 should be made explicit. The Court stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (Emphasis added).

On page 3 of the Office Action, the Examiner states that “... it would have been obvious to one of ordinary skill in the art to combine the teachings of Borden and Knudson to devise a method of rotationally displaying complete programming information for a cell of an electronic program guide grid and give the viewer a chance to see all of the data present.”

This is a mere conclusory statement, taken almost directly from the prohibited rationales listed in the Examination Guidelines. There is no articulated reasoning with rational underpinnings supporting the legal conclusion of obviousness. In particular, the Examiner failed to resolve the Graham factual inquiries, also listed in the Examination Guidelines.

In relying on this rationale, the Examination Guidelines quotes KSR: “[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *Id.* The Examination Guidelines go on to state, “If any of these findings [from the Graham factual inquiries] cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art.” *Id.* A further argument against the Examiner’s factual findings is not possible, as the Examiner failed to include such factual findings, based on the Graham factual inquiries, in the Office Action.

In summary, the Examiner has failed to state a prima facie case for the combination of the two disparate patent references.

Applicant's invention has the advantage that data contained within a cell in an electronic program grid can be moved from a static state to a dynamic state where the data rotates within the originally selected cell. Thus, a viewer can view a plurality of data items in an electronic program guide grid without opening any additional window or without navigating away from the original electronic program guide.

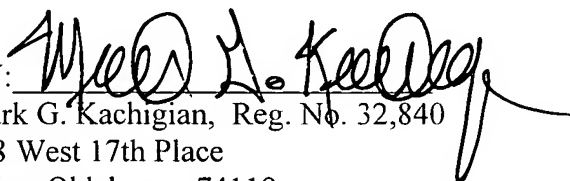
Applicant is grateful for the thorough examination of the application by Examiner Baig and believes the application is now in condition for allowance and such action is earnestly solicited.

If any further issues remain, a telephone conference with the Examiner is requested. If any further fees are associated with this action, please charge or refund Deposit Account No. 08-1500.

Respectfully Submitted

HEAD, JOHNSON & KACHIGIAN

Dated: 10 December 2008

BY: 
Mark G. Kachigian, Reg. No. 32,840
228 West 17th Place
Tulsa, Oklahoma 74119
(918) 584-4187
Attorneys for Applicant